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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/830,161	04/21/2004	Donald L. Peinetti	040180-000130US	8110
20350	7590	12/27/2005	EXAMINER	
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			MULLEN, THOMAS J	
			ART UNIT	PAPER NUMBER
			2632	

DATE MAILED: 12/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/830,161

Applicant(s)

PEINETTI ET AL.

Examiner

Thomas J. Mullen, Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8-12, 15 and 18 is/are rejected.
- 7) ☒ Claim(s) 6, 7, 13, 14, 16, 17, 19 and 20 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/11/04</u> . | 6) <input type="checkbox"/> Other: ____. |

1. The related applications mentioned in paragraph 0002 of the specification should be identified by their serial numbers (and patent numbers, if any). Related applications 10/829,915, 10/829,916 and 10/830,174, which appear to correspond to the related applications mentioned in the specification, are noted.

2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Errors noted by the examiner include:

paragraph 0008, it appears that the first two sentences should be a single sentence (i.e., on line 2 it appears that "home. In" should be --home, in--);

paragraph 0035, in the Brief Description of Fig 14, it is unclear what is meant by "transmitting and receiving an animal control system"; and

paragraph 0074, line 7, between "1232" and "each" it appears that "a" should be deleted.

3. The drawings are objected to because in Fig. 7b, block 790, it appears that a "degrees" symbol should follow each of "0", "180", "90" and "270" (see the formula in paragraph 63 of the specification).

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. Claims 3 and 8-17 are objected to under 37 CFR 1.75(a) for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3, "said correction signal generator" lacks antecedent basis (note the dependency of the claim).

Claim 8, line 7, it appears that after "plurality" should be inserted --of--.

At the end of claim 15, "said target zone" lacks antecedent basis (note "avoidance zone" on line 3).

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-5, 8-12, 15 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Lee et al (US 6415742).

Note in Lee et al (Fig. 1), portable transmitter 28; stationary transmitter 12; wire loop 14; and animal collar-mounted receiver 24. Collar-mounted receiver 24 may provide an audio stimulus (via audio device 58) and/or a shock-type stimulus (via electrode probes 62a,b), see Fig. 9 and col. 8, lines 5-11. In one embodiment (see Fig. 6) the transmitters 12,28 contain an ID selector switch 49' and ID generators 47',35'; likewise, collar-mounted receiver 24 may include an ID selection switch (see Fig. 9). In particular, Lee et al teaches that the system may be "use(d) with multiple pets to allow for different deterrent conditions to be applied to differing pets" (col. 3, lines 13-15), the pets being distinguished by respective "identifiers" set by the ID selectors (see col. 6, line 57 to col. 7, line 31). As part of the "different deterrent conditions", Lee et al uses an "intensity level selection switch" 66' at the transmitters (Fig. 6), for selecting a particular stimulus intensity in association with a particular pet. Lee et al uses a "processing device" 34' associated with the transmitters (12,28), and signal decoding logic 56 (which may be a "processing device", col. 8, lines 1-5) associated with the receivers 24, to store and select an appropriate ID associated with a particular pet receiver; see col. 6, last line to col. 7, line 4, and col. 8, lines 20-23. Thus, the "processing devices" associated with each of the transmitters and receivers implicitly include (or are in communication with) some form of "memory" for storing

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the "identifier" associated with a particular pet, i.e. "one of a plurality of animals in a household". Further, the "processing device" 56 associated with receiver 24 implicitly "initiate(s) a routine" for applying the correction signal, when appropriate. Regarding the phrase "without said receiver transmitting a signal to indicate to said transmitter the presence of said animal in a target zone" in claims 1 and 8 (and the similar phrase in claim 15), Lee et al implicitly provides this teaching since Lee et al does not require any "presence" signal being sent from the receiver 24 to the transmitter (12,28) before an animal control signal is communicated from the transmitter to the receiver.

As to claims 2-4 and 9-11, note correction signal "generators" 58 (audio) and 60 (shock) in the receiver 24 (Fig. 9), for generating an audible sound and a "voltage", respectively.

As to claims 5 and 12, the correction signal generator (receiver) 24 is attached to a "collar" as shown in Fig. 1.

7. Claims 6-7, 13-14, 16-17 and 19-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, and if the objections discussed in paragraph 4 above are overcome.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The art cited by applicant has been considered. Gillis et al (US 6901883) and Schell et al (US 6155208) are cited to further show the state of the art.


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Mullen, Jr. whose telephone number is 571-272-2965. The examiner can normally be reached on Monday-Thursday from 6:30 AM to 4 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Wu, can be reached on (571) 272-2964. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2600.

TJM


Thomas J. Mullen, Jr.
Primary Examiner
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